

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1249

Introduced by Senator Hill

February 20, 2014

An act to add Sections 25150.9, 25150.9.1, and 25150.9.2 to the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1249, as amended, Hill. Hazardous waste: shredder waste.

(1) The California Integrated Waste Management Act of 1989 requires materials that require special handling, as defined, to be removed from major appliances and vehicles in which they are contained before crushing for transport or transferring to a baler or shredder for recycling.

The hazardous waste control laws prohibit a person who is not a certified appliance recycler from removing materials that require special handling from major appliances and imposes specified requirements regarding transporting, delivering, or selling discarded major appliances to a scrap recycling facility. A violation of the hazardous waste control laws is a crime.

This bill would authorize, until January 1, 2017, the Department of Toxic Substances Control, in consultation with ~~other state entities~~ *the Department of Resources Recycling and Recovery and the State Water Resources Control Board*, to adopt regulations establishing alternative management standards for a metal shredding facility, including activities conducted within the boundaries of a metal shredding facility, and for the generation, storage, transportation, and disposal of metal shredder residue and treated metal shredder residue, as defined, that would apply

in lieu of the hazardous waste management standards if the department performs specified actions. The bill would include among those department actions preparing a preliminary analysis and a final analysis evaluating the hazardous waste management activities to which the management standards would apply. The bill would require the department to provide notice that it proposes to adopt alternative management standards. The bill would prohibit the department from adopting management standards that are less stringent than applicable standards under federal law and would require metal shredder residue and treated metal shredder residue to be disposed of in a specified manner. The bill ~~would, on~~ *would require the department to complete the analysis of the hazardous waste management activities and the subsequent regulatory action before January 1, 2017, and would make* all hazardous waste determinations and policies, procedures, or guidance issued by the department before January 1, 2014, relating to metal shredder residue or treated metal shredder residue inoperative *once the department has taken regulatory action*. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

The bill would authorize the department to collect an annual fee from metal shredding facilities at a rate sufficient to cover the costs of the department ~~relating to metal shredding facilities, metal shredder residue, or treated metal shredder residue, as specified to implement these provisions~~.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25150.9 is added to the Health and Safety
- 2 Code, to read:
- 3 25150.9. (a) The Legislature finds and declares that this section
- 4 is intended to address the unique circumstances associated with
- 5 the operation of metal shredding facilities, and the generation and
- 6 management of wastes generated by metal shredding facilities.

1 The Legislature further declares that this section does not set a
2 precedent applicable to the management, including disposal, of
3 other hazardous wastes.

4 (b) For purposes of this section, the following definitions shall
5 apply:

6 (1) “Metal shredder aggregate” means the combination of ferrous
7 metal, nonferrous metal, other recyclable materials, and
8 nonrecyclable materials that exits from a metal shredding facility.

9 (2) “Metal shredder residue” means the predominantly
10 nonmetallic material that remains after conducting physical
11 separation methods to separate any ferrous or nonferrous metals,
12 or any other recyclable materials, from the materials created by a
13 metal shredding facility. Metal shredder residue does not include
14 the ferrous and nonferrous metals and other recyclable materials
15 that have been removed from the metal shredder aggregate.

16 (3) “Metal shredding facility” means an operation that uses a
17 shredding technique to process end-of-life vehicles, waste
18 appliances, and other forms of scrap metal to facilitate the
19 separation and sorting of ferrous metals, nonferrous metals, and
20 other recyclable materials from nonrecyclable materials that are
21 components of the end-of-life vehicles, waste appliances, and other
22 forms of scrap metal. “Metal shredding facility” does not include
23 a feeder yard, a metal crusher, or a metal baler.

24 (4) “Scrap metal” includes ferrous metals, nonferrous metals,
25 aluminum scrap, other metals, and auto bodies, but does not include
26 aluminum cans, steel cans, or bimetal cans.

27 (5) “Treated metal shredder residue” means metal shredder
28 residue that has been chemically treated to alter its chemical
29 characteristics for purposes of rendering the metal shredder residue
30 less hazardous or nonhazardous for purposes of classifying the
31 waste in accordance with the criteria and guidelines adopted by
32 the department pursuant to Section 25141.

33 (c) The department, in consultation with the Department of
34 Resources Recycling and ~~Recovery~~, *Recovery and* the State Water
35 Resources Control Board, ~~and the State Air Resources Board~~, may
36 adopt regulations establishing management standards for metal
37 shredding facilities and for the generation, storage, transportation,
38 and disposal of metal shredder residue or treated metal shredder
39 residue as an alternative to the requirements specified in this

chapter and the regulations adopted pursuant to this chapter, if the department does all of the following:

(1) Prepares an analysis of the activities to which the management standards will apply pursuant to subdivision (d). The department shall first prepare the analysis as a preliminary analysis and make it available to the public at the same time that the department gives notice, pursuant to Section 11346.4 of the Government Code, that it proposes to adopt the alternative management standards. The department shall include in the notice a statement that the department has prepared a preliminary analysis and a statement concerning where a copy of the preliminary analysis can be obtained. The information in the preliminary analysis shall be updated and the department shall make the analysis available to the public as a final analysis not less than 10 working days before the date that the regulation is adopted.

(2) Demonstrates at least one of the conclusions set forth in paragraphs (1) to (4), inclusive, of subdivision (e).

(3) Imposes, as may be necessary, conditions and limitations as part of the management standards that ensure that the hazardous waste management activity to which the management standards will apply will not pose a significant potential hazard to human health or safety or to the environment.

(d) Before the department gives notice of a proposal to adopt the management standards pursuant to subdivision (c), and before the department adopts the regulation, the department shall evaluate the hazardous waste management activities and prepare, as required by paragraph (1) of subdivision (c), an analysis that addresses all of the following aspects of the activity, to the extent that the management standards can affect these aspects of the activity:

(1) The types of hazardous waste and the estimated amounts of each hazardous waste that are managed as part of the activity and the hazards to human health or safety or to the environment posed by reasonably foreseeable mismanagement of those hazardous wastes and their hazardous constituents. The estimate of the amounts of each hazardous waste that are managed as part of the activity shall be based upon information reasonably available to the department.

(2) The complexity of the activity, and the amount and complexity of operator training, equipment installation and maintenance, and monitoring that are required to ensure that the

1 activity is conducted in a manner that safely and effectively
2 manages each hazardous waste.

3 (3) The chemical or physical hazards that are associated with
4 the activity and the degree to which those hazards are similar to,
5 or different from, the chemical or physical hazards that are
6 associated with the production processes that are carried out in the
7 facilities that produce the hazardous waste that is managed as part
8 of the activity.

9 (4) The types of accidents that might reasonably be foreseen to
10 occur during the management of particular types of hazardous
11 waste streams as part of the activity, the likely consequences of
12 those accidents, and the *reasonably available* actual ~~reasonably~~
13 ~~available~~ accident history associated with the activity.

14 (5) The types of locations ~~at which~~ *where* the activity may be
15 carried out, an estimate of the number of these locations, and the
16 types of hazards that may be posed by proximity to the land uses
17 described in Section 25227. The estimate of the number of
18 locations ~~at which~~ *where* the activity may be carried out shall be
19 based upon information reasonably available to the department.

20 (e) The department shall not give notice proposing the adoption
21 of, and the department shall not adopt, a regulation pursuant to
22 subdivision (c) unless it first demonstrates at least one of the
23 following, using the information developed in the analysis prepared
24 pursuant to subdivision (d):

25 (1) The requirements that the management standards replace
26 are not significant or important in either of the following situations:

27 (A) Preventing or mitigating potential hazards to human health
28 or safety or to the environment posed by the activity.

29 (B) Ensuring that the activity is conducted in compliance with
30 other applicable requirements of this chapter and the regulations
31 adopted pursuant to this chapter.

32 (2) A requirement is imposed and enforced by another public
33 agency that provides protection of human health and safety and
34 the environment that is as effective as, and equivalent to, the
35 protection provided by the requirement, or requirements, that the
36 management standards replace.

37 (3) Conditions or limitations imposed as part of the management
38 standards will provide protection of human health and safety and
39 the environment equivalent to the requirement, or requirements,
40 that the management standards replace.

1 (4) Conditions or limitations imposed as part of the management
2 standards accomplish the same regulatory purpose as the
3 requirement, or requirements, that the management standards
4 replace, but at less cost or with greater administrative convenience,
5 and without increasing potential risks to human health or safety
6 or to the environment.

7 (f) The department shall not adopt management standards
8 pursuant to this section if those standards are less stringent than
9 the standards that would otherwise apply under the federal act.

10 (g) The management standards adopted by the department
11 pursuant to this section shall establish requirements that apply not
12 only to the generation, management, and disposal of metal shredder
13 residue or treated metal shredder residue, but shall apply to all
14 activities being conducted within the boundaries of any metal
15 shredding facility. *Nothing in this subdivision is intended to*
16 *duplicate or conflict with other laws, rules, or regulations adopted*
17 *by other state agencies. The department shall, as much as possible,*
18 *align the management standards with the laws, rules, and*
19 *regulations of other state agencies.*

20 (h) The management standards adopted by the department
21 pursuant to this section may, to the extent it is consistent with the
22 standards that would otherwise apply under the federal act, allow
23 for metal shredder residue or treated metal shredder residue to be
24 classified and managed as nonhazardous waste, provided that the
25 analysis prepared pursuant to subdivision (d) demonstrates that
26 classification and management as hazardous waste is not necessary
27 to prevent or mitigate potential hazards to human health or safety
28 or to the environment posed by the metal shredder residue or
29 treated metal shredder residue.

30 (i) (1) Notwithstanding Sections 25189.5 and 25201, metal
31 shredder residue or treated metal shredder residue shall be disposed
32 of in either a class I hazardous waste landfill or, if the management
33 standards adopted by the department pursuant to this section result
34 in it being classified as a nonhazardous waste, in a composite-lined
35 portion of a solid waste landfill unit that meets all requirements
36 applicable to the disposal of municipal solid waste in California
37 after October 9, 1993, and that is regulated by waste discharge
38 requirements issued pursuant to Division 7 (commencing with
39 Section 13000) of the Water Code for discharges of designated

waste, as defined in Section 13173 of the Water Code, or metal shredder residue or treated metal shredder residue.

(2) *If the management standards adopted by the department pursuant to this section result in metal shredder residue or treated metal shredder residue being classified as nonhazardous waste, the material may be used as alternative daily cover or for beneficial reuse pursuant to Section 41781.3 of the Public Resources Code and its implementing regulations.*

(j) ~~On~~ *The department shall complete the analysis described in paragraph (1) of subdivision (c) and subsequent regulatory action before January 1, 2017, all 2017. All hazardous waste determinations and policies, procedures, or guidance issued by the department before January 1, 2014, governing or related to the generation, treatment, and management of metal shredder residue or treated metal shredder residue are shall be inoperative and have no further effect once the department has taken regulatory action.*

(k) The authority of the department to adopt original regulations pursuant to this section shall remain in effect only until January 1, 2017, unless a later enacted statute, which is enacted before January 1, 2017, deletes or extends that date. This subdivision does not invalidate any regulation adopted pursuant to this section before the expiration of the department's authority.

(l) A regulation adopted pursuant to this section on or before January 1, 2017, shall continue in force and effect after that date, until repealed or revised by the department.

SEC. 2. Section 25150.9.1 is added to the Health and Safety Code, to read:

25150.9.1. The department is authorized to collect an annual fee from all metal shredding facilities that are subject to the requirements of this chapter or to the management standards adopted pursuant to Section 25150.9. The department shall establish and adopt by regulation a fee schedule that is set at a rate sufficient to reimburse the department's costs to adopt, and amend as necessary, the management standards for metal shredding facilities, to analyze samples of metal shredder residue or treated metal shredder residue from all metal shredding facilities, and to inspect all metal shredding facilities, as well as transporters and facilities where metal shredder residue or treated metal shredder residue are disposed, to ensure compliance with the management standards adopted pursuant to Section 25150.9, pursuant to

1 *implement* this chapter. The fee schedule established by the
2 department may be updated periodically as necessary *and shall*
3 *provide for the assessment of no more than the reasonable costs*
4 *of the department to implement this chapter.*

5 SEC. 3. Section 25150.9.2 is added to the Health and Safety
6 Code, to read:

7 25150.9.2. If metal shredder residue or treated metal shredder
8 residue is accepted by a solid waste landfill that manages and
9 disposes of the metal shredder residue or treated metal shredder
10 residue in accordance with the management standards adopted by
11 the department pursuant to Section 25150.9, the metal shredder
12 residue or treated metal shredder residue, upon acceptance by the
13 solid waste landfill, shall thereafter be deemed to be a solid waste,
14 and not a hazardous waste, for purposes of this chapter and Section
15 40191 of the Public Resources Code.

16 SEC. 4. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.